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EXAMINER

LUM, L

ART UNIT

PAPER NUMBER

3611

DATE MAILED:

10/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action SummaryApplication No.
09/088,259

Applicant(s)

Sutherland et al

Examiner

Lum, Lee S.

Group Art Unit

3611 Responsive to communication(s) filed on Jun 1, 1998 This action is **FINAL**. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

 Claim(s) 2 and 4 is/are allowed. Claim(s) 1, 3, and 5-18 is/are rejected. Claim(s) _____ is/are objected to. Claims _____ are subject to restriction or election requirement.**Application Papers** See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on Jun 1, 1998 is/are objected to by the Examiner. The proposed drawing correction, filed on _____ is approved disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119** Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All Some* None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) _____. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)** Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). 8 Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152**--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---**

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DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the following elements as described in the specification:
 - a. cross-brace 3c (unidentified),
 - b. slider joint and pin joint (page 9),
 - c. in Fig. 5 - groove in which elements 61 and 65 rotate,
 - d. in Fig. 6 - notch 52, and the following elements are not identified:
hub assembly 40, hub case 41,
and wheel 31, including a depiction of its removal.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

Additionally, the following omissions should be rectified:

- in Fig. 2, connecting lines to elements 2-4 are missing,
- in Fig. 3, bottom left figure omits label for element 11/12,
- in Fig. 4, connecting line to element 4 is missing,
- in Fig. 5, connecting line to element 64 is missing.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3 and 5-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1, the word "means" is preceded by the word(s) "seat" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

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In Claim 5, it is unclear why the "lack of gear teeth" would necessarily limit the meshing components in the "opposite rotational sense". Moreover, the mechanism's "locked and open position" is not described/defined.

In Claim 6, the recitation, "unconstraining the rotational freedom...against said spring-loaded piston", is incomprehensible. Moreover, the mechanism's "locked position" is not described/defined.

In Claim 8, it is unclear what is meant by "the force of gravity", and, the recitation "depending on the orientation of the...mechanism" in that such gravity is always imposed on all/any elements. Again, the mechanism's "locked position" is not described/defined.

In Claim 14, the operation of removing the rear wheels is unclear, and is unsupported by structure.

In Claim 18, the "either of the constrained rotational limits" are not described/defined.

The following elements lack antecedent basis:

- in Claim 1 - "the center", "its own axle",
- in Claim 3 - "one...assembly", "another...assembly", "third...assembly",
- in Claim 5 - "the rotational freedom", "the opposite", "its locked...",
- in Claim 6 - "the rotational freedom", "its locked postion",
- in Claim 7 - "its highest...",
- in Claim 8 - "the force", "the orientation", "its locked position",
- in Claim 9 - "the front wheel", "the rear wheels",
- in Claim 11 - "the rotation",
- in Claim 12 - "the hub",
- in Claim 18 - "the constrained".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9-12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Eichhorn (5590896).

Regarding **Claim 1**, Eichhorn discloses a conveniently transportable infant stroller (Fig. 1A) for safely and smoothly carrying an infant over various terrain at speeds faster than average walking apace, the stroller comprising:

a frame assembly comprising three rigid members, elements 20, 30 and 40 (Fig. 6D), hinged (Fig. 6D) and constrained to move together by a releasable locking and folding means, comprising elements 140 and 150,

three wheels 260, 270 and 320, in tricycle relationship, supported by the assembly (Fig. 2), each with its own axle, 329, 340 and 350, respectively (Col. 8, line 3-8),

axle support means between the assembly and wheels,

seat means 800 attached to the assembly, the seat means being dimensioned and positioned such that the center of gravity of the infant seated therein is generally between forward and rear wheels (Fig. 1A),

means of sheltering infant 729 from weather, and,

shelter support means 725 between the means of sheltering and assembly, the shelter support means giving the sheltering means a plurality of positions (extended or retracted; Col. 6, lines 25-29).

Regarding **Claim 9** dependent on Claim 1, the patent discloses the frame assembly, best viewed in Fig. 2, as comprising:

a front fork 40 which provides a mounting location 41 for the front wheel,

a rear support 30 which provides mounting locations 280 for the rear wheels, and,

a handle bar 20 which provides a means for pushing the stroller.

Regarding **Claim 10** dependent on Claim 9, the patent discloses a means 80 for supporting the infant's feet as secured to the front fork (Fig. 2).

Regarding **Claim 11** dependent on Claim 9, the patent discloses the mounting positions for the rear wheels as comprising a hub assembly (Fig. 2, and, Col. 7, lines 24-32), which

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provides a deployable brake 300 and 310, to constrain the rotation of the wheels independently, and a means 280 and 290 (Col. 7, lines 39-41) for quick removal of the wheels.

Regarding **Claim 12** dependent on Claim 11, the patent discloses the brake as comprising a lever 300 and 310, pinned to the hub assembly (Fig. 8A), which, when rotated, engages a toothed disk 360 and 370, to the rear wheel (Col. 7, lines 43-51).

Regarding **Claim 14** dependent on Claim 11, the patent discloses the means of removal of the rear wheels as comprising a spring-loaded pin 380 and 390 which engages a notch 341 and 351 in the axle 340 and 340 of the wheel, so that when the pin is forced against the spring, the axle is free to move in and out of the hub assembly (Col. 7, lines 33-42).

Regarding **Claim 15** dependent on Claim 1, the patent discloses the means for sheltering as comprising a piece of fabric 729 supported by a batten or bent rod 725, the batten being secured to the shelter support means (Fig. 1A).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eichhorn in view of Sack. Eichhorn does not show the shelter support means as comprising a rotating piece and other elements.

Regarding **Claim 16** dependent on Claim 15, Sack discloses the shelter support means 110 (Fig. 3) as comprising a rotating piece 114 pivotally attached to the handle bar (unnumbered; Fig. 1), the piece being pinned to a spring-loaded rod 132.

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It would have been obvious to one with ordinary skill in the art at the time at which the Eichhorn invention was made to include Sack's rotational element to provide a full range of positions for the canopy.

Regarding **Claim 17** dependent on Claim 16, Sack discloses rotational freedom of the piece as constrained by fasteners 116 seating in grooves 124 on it.

It would have been obvious to one with ordinary skill in the art at the time at which the Eichhorn invention was made to include Sack's rotational element to provide a full range of positions for the canopy.

Regarding **Claim 18** dependent on Claim 16, as best understood, Sack discloses the spring-loaded rod as tending to force the piece to either of the constrained rotational limits (Col. 6, line 43, to Col. 7, line 18).

It would have been obvious to one with ordinary skill in the art at the time at which the Eichhorn invention was made to include Sack's rod to lock the canopy in specific positions.

5. Allowable Claims

5A. **Claims 2 and 4** are allowable.

5B. **Claims 3, 5-8 and 13** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure:

Stroller - Huang (5820140), Kiser (5765856), Cone et al (5257799), Chiu (5244228), Wang (5056805), Huang (5039118), Hawkes (5028061), Kassai (4614454), Zonka (5683096), Eyman et al (5522614), Leu (5364119), Smith (5299825), and Chen (5123670).

Mechanism - Wang (5906013), Stone (5775460), Cheng (5730542 and 5617592), Kiendl (5509747), and Kassai (4614454).

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7. Communication with the Examiner

Any inquiry concerning this communication should be directed to Ms. Lee Lum at telephone number (703) 305-0232. The examiner can normally be reached between 8 am and 5 pm, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Judy Swann, can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-2571 .

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer assistance at (703) 306-5771.

Ms. Lee S. Lum
Patent Examiner
10/15/99



ERIC CULBRETH
PRIMARY EXAMINER

